

**COMMONWEALTH OF KENTUCKY  
KENTUCKY BOARD OF TAX APPEALS  
FILE NO. K03-S-02**

**BINGHAM C. HART**  
**Represented by:**  
**Self**

**APPELLANT**

v.

**ORDER NO. K-19140**

**FAYETTE COUNTY PROPERTY  
VALUATION ADMINISTRATOR**

**APPELLEE**

\* \* \* \* \*

The Kentucky Board of Tax Appeals has delegated authority to a hearing officer pursuant to KRS 13B.030. The hearing officer entered a recommended order in compliance with the provisions of KRS 13B.110. No exceptions or objections to the recommended order were filed. The Board has reviewed the record and the recommended order. The recommended order states:

The Kentucky Board of Tax Appeals has delegated authority to Robert Layton to act as a hearing officer pursuant to KRS 13B.030. The hearing officer has considered the evidence submitted by the parties at the hearing, and makes the following findings of fact, conclusions of law and recommended order.

**FINDINGS OF FACT**

This is an appeal of the 2003 property tax assessment for property owned by Bingham Hart located at 945 Chinoe Road, Lexington, Fayette County, Kentucky. Hart filed a timely

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appeal with the Kentucky Board of Tax Appeals from the Fayette County Board of Assessment Appeals decision, which reduced the \$310,000 assessment of the Fayette County Property Valuation Administrator. The Fayette Board valued the property at \$295,000. Hart contends the property is worth \$247,000. Based on the lack of proof introduced by Hart, and based on the comparable sales introduced by the Fayette County Property Valuation Administrator, this recommended order finds the fair cash value of the property is \$300,000.

Hart testified that he built the house in 1994. Hart acted as the general contractor and also did all the electrical work. In 1994, the cost of building the house (which was less than market value because of Hart's labor contributions) was \$169,000. Hart also believed his taxes had risen too rapidly, although he did not provide proof to establish that the assessment was above fair market value. Because of the time that has passed since construction and because of his labor contributions, the cost approach testimony has minimal probative value. Hart did not introduce any other testimony that would support his valuation of the property. No comparable sales evidence was introduced by Hart.

Assistant Fayette County PVA Shawn Thompson testified that the property was worth \$300,000, and introduced three comparable sales. *Exhibit 4*. While all three sales had differences from the subject property, the similarities on size, construction and location for each of the three sales make all three sales appropriate for use in applying the comparable sales approach to valuing the subject property.

The comparable sales approach is most appropriate for use in valuing the subject property, and the comparable sales introduced by the Fayette County PVA are most appropriate for use in the comparable sales approach. After the required adjustments reflected in *Exhibit 4*,

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the fair cash value of the subject property as of January 1, 2003 is \$300,000.

### **CONCLUSIONS OF LAW**

The Kentucky Board of Tax Appeals is vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders and determinations of the Fayette County Board of Assessment Appeals pursuant to KRS 131.340(1).

The function of the Board is not simply to review the action of the Fayette County Board of Assessment Appeals, but to try anew the issues as presented. *Jefferson County Property Valuation Administrator v. Oxford Properties, Inc.*, Ky.App., 726 S.W.2d 317, 319 (1987). See KRS 131.340(1).

As the party proposing the Kentucky Board of Tax Appeals set aside the decision of the Fayette County Board of Assessment Appeals, Hart bears the burden of proving a lower value. KRS 13B.090(7).

Section 172 of the Kentucky Constitution requires all property be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale.

The choice of the most appropriate and reliable approach to valuation is within the prerogative of the Board. *Jefferson County Property Valuation Administrator*, 726 S.W.2d at 319.

Regardless of the manner or method used by the Property Valuation Administrator or the decision of the Kentucky Board of Tax Appeals, the finding of valuation must be at its fair cash value, estimated at the price it would bring at a fair voluntary sale. *Helman v. Kentucky Board of Tax Appeals*, Ky.App., 554 S.W.2d 889(1977).

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The hearing officer finds Hart has not met his burden of proof, and finds the fair cash value of the property as of January 1, 2003 is \$300,000.

**RECOMMENDED ORDER**

The hearing officer recommends the final ruling of the Fayette County BAA be reversed, and recommends the fair cash value of the property as of January 1, 2003 be set at \$300,000.

This is a recommended order, and each party shall have fifteen (15) days from the date this recommended order is mailed to file exceptions to the recommendations with the Kentucky Board of Tax Appeals. This recommended order has been sent by first class mail on the date below to the last known address of the parties. Failure to file exceptions to the recommended order may preclude further judicial review.

**ORDER**

The Kentucky Board of Tax Appeals has considered the record, and accepts the recommended order of the hearing officer, and adopts it as the Board's final order. Failure to file exceptions to an administrative hearing officer's recommendations after a hearing constitutes a failure to exhaust administrative remedies and precludes appellate review. *Swatzell v. Natural Resources and Environmental Protection Cabinet*, Ky App 962 SW 2d 866 (1998). The following information is provided pursuant to the final order requirements of KRS Chapter 13B:

This is a final and appealable order which may be appealed to the Circuit Court of the county in which the appeal originated by filing a petition of appeal in the appropriate Circuit Court within thirty (30) days after this final order is mailed or delivered by personal service, pursuant to KRS 13B.140(1) and KRS 131.370(1). Copies of the petition of appeal shall be

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served by the Petitioner upon the Kentucky Board of Tax Appeals and all parties of record. The petition of appeal shall include the names and addresses of all parties to the proceedings and the Kentucky Board of Tax Appeals, and a statement of the grounds on which the review is requested. The petition of appeal shall be accompanied by a copy of this final order. Within twenty (20) days after service of the petition of appeal, or within further time allowed by the Circuit Court, the Kentucky Board of Tax Appeals shall transmit to the reviewing court the original or a certified copy of the official record of the proceeding under review in compliance with KRS 13B.140(3).

**DATE OF ORDER  
AND MAILING:  
April 5, 2004**

FULL BOARD CONCURRING.

GEORGE H. HELTON  
CHAIRMAN